

## CHAPTER 2

### ARTICLE 15 — SELECTION OF PROFESSIONAL CONSULTING SERVICES

*Revised – August 10, 2002*

#### 22060.1 Policy

The California Department of Corrections (CDC) shall secure the services of private architectural, engineering and other firms, as defined in section 4525 (a) of the Government Code, on the basis of:

- Demonstrated competence.
- Professional qualifications necessary for the satisfactory performance of the service required.

#### 22060.2 Purpose

This article incorporates the requirements for selecting the services of architectural, engineering, and other firms as defined in section 4525 (a) of the Government Code.

#### 22060.3 Responsibility

CDC's Contracts Management Branch shall provide functional direction for the selection of firms (defined below) pursuant to this article.

#### 22060.4 Definitions

##### Firm

Any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.

##### Small Business Firm

A business in which the principal office is located in California and the officers of such business are domiciled in California which is independently owned and operated and which is not dominant in its field of operation.

The maximum dollar volume that a small business may generate shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries.

##### State Agency Head

For the purpose of this article, the State Agency Head is the Director of CDC or his/her designee.

##### Architectural, Landscape Architectural, Engineering, Environmental, and Land Surveying Services

Professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, are the primary consulting services spoken to in this article.

##### Construction Project Management

Those services provided by a licensed architect, registered engineer, or licensed general contractor who meet the requirements of Government Code section 4529.5 for management and supervision of work performed on State construction projects.

## Environmental Services

Those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws. "Environmental services" also includes the processing and awarding of claims pursuant to Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

#### 22060.5 Notice of Announcement

Where services subject to this article are identified as being required, the Director, or designee, shall make a statewide notice of announcement as follows:

- The announcement shall be advertised in two major California daily newspapers.
- The announcement shall be placed in the California State Contracts Register and shall include information as identified in section 14825.1, Government Code
- The announcement shall be published in respective professional societies publications.

All announcements in professional societies or newspapers shall contain the following minimal information:

- The nature of the work.
- The criteria upon which the selection of a firm shall be made.
- The time frame within which statements of interest, qualification, and performance data shall be received.

Failure of the professional societies or newspapers to publish the notice of announcement shall not operate to invalidate any contract.

Firms selected may be retained for multiple years to complete the service.

#### 22060.6 Established Criteria

The Director, or designee, shall establish criteria which will comprise the basis for selection, which shall include such factors as:

- Professional excellence.
- Demonstrated competence.
- Specialized experience of the firm.
- Education and experience of key personnel.
- Specialized staff capability.
- Workload.
- Ability of the firm to meet schedules and budgets.
- Principals to be assigned by the firm.
- Nature and quality of completed work by the firm.
- Reliability and continuity of the firm.
- Location.
- Professional awards received by the firm.
- Other relevant considerations.

The Director, or designee, shall weigh such factors according to the nature of the work to be performed, the needs of the state and complexity and special requirement of the specific work.

#### 22060.7 Selection of Architects or Engineers

After expiration of the period stated in the publications, the Director, or designee, shall evaluate statements of

qualifications and performance data submitted by interested firms and on file in the department. The Director, or designee, shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required service. From the firms with which the Director, or designee, holds discussions, the Director, or designee, shall select no less than three, in order of preference, based upon the established criteria, whom the Director, or designee, deems to be the most highly qualified to provide the services required. In the event there are fewer than three qualifying submittals, the Director, or designee, will make a finding as to whether it is in the best interest of the State to proceed or re-advertise.

#### **22060.8 Estimate of Value of Service**

Before any discussion with any firm concerning fees, the Director, or designee, shall cause an estimate of the value of such services to be prepared. Such estimate shall be, and shall remain, confidential until the award of contract or abandonment of any further procedure for the services to which it relates.

#### **22060.9 Negotiation**

The Director, or designee, shall attempt to negotiate a contract with the best-qualified firm. Should the Director, or designee, be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at fair and reasonable compensation, negotiations with that firm shall be terminated. The Director, or designee, shall then undertake negotiations with the second most qualified firm. Failing accord, negotiations shall be terminated. The Director, or designee, shall then undertake negotiations with the third most qualified firm. Failing accord, negotiations shall be terminated. Should the Director, or designee, be unable to negotiate a satisfactory contract with any of the selected firms, the Director, or designee, may select additional firms in order of their competence and qualifications and continue negotiations in the manner prescribed until an agreement is reached.

#### **22060.10 Amendments**

In instances where the state effects a necessary change in the work during the course of performance of the contract, the firm's compensation may be adjusted by mutual written agreement in a reasonable amount where the amount of work to be performed by the firm is changed from that which existed previously in the contemplation of the parties.

#### **22060.11 Contracting in Phases**

Should the Director, or designee, determine that it is necessary or desirable to have the work performed in phases, it will not be necessary to negotiate the total contract price in the initial instance. This is provided that the Director, or designee, shall have determined that the firm is best qualified to perform the work at a reasonable cost. Also the contract shall contain provisions that the state, at its option, may utilize the firm for other phases and the firm will accept a fair and reasonable price for subsequent phases to be later negotiated, mutually-agreed upon and reflected in a subsequent written instrument. The procedure with regard to estimates and negotiation shall otherwise be applicable.

#### **22060.12 Small Business Participants**

The Director, or designee, shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement for services for which the Director, or designee, concludes that small business firms could be especially qualified. The Director,

or designee, shall assist firms in attempting to qualify for small business status. A failure of the Director, or designee, to send a copy of an announcement to any firm shall not operate to invalidate any contract.

#### **22060.13 Applicability of this Article**

This article shall not apply where the Director, or designee, determines that:

- The services needed are more of a technical nature.
- The services needed involve little professional judgment.
- Requiring bids would be in the public interest.

#### **22060.14 Revisions**

The Deputy Director, Financial Services Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **22060.15 References**

CCR (15) (3) §§ 3454 - 3464.

PC §§ 5054, 5058, and 7000.

GC §§ 4525 - 4529., , and 14825.1.

Health & Safety Code §§ Division 20 §§ Chapter 6.75 (commencing with Section 25299.10)